

**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Third Amended Accusation
Against:

ROBIN R. ROBERTS,
a.k.a. ROBIN R. JACKSON
P.O. Box 276
Hoopa, CA 95546

Registered Nurse License No. 352098

Respondent.

Case No. 2007-63

OAH No. N2006100557

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by
the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on December 19, 2007.

It is so ORDERED November 19, 2007.

LaTranene W Tate

FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

1 EDMUND G. BROWN JR., Attorney General
2 of the State of California
3 FRANK H. PACOE
4 Supervising Deputy Attorney General
5 REBECCA HEINSTEIN, State Bar No. 173202
6 Deputy Attorney General
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12 Attorneys for Complainant

13 **BEFORE THE**
14 **BOARD OF REGISTERED NURSING**
15 **DEPARTMENT OF CONSUMER AFFAIRS**
16 **STATE OF CALIFORNIA**

17 In the Matter of the Third Amended Accusation
18 Against:

19 **ROBIN R. ROBERTS,**
20 **a.k.a. ROBIN R. JACKSON**
21 P.O. Box 276
22 Hoopa, CA 95546

23 Registered Nurse License No. 352098

24 Respondent.

Case No. 2007-63

OAH No. N2006100557

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

25 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
26 above-entitled proceedings that the following matters are true:

27 **PARTIES**

28 1. Ruth Ann Terry, M.P.H, R.N (Complainant) is the Executive Officer of
the Board of Registered Nursing. She brought this action solely in her official capacity and is
represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California,
by Rebecca Heinstein, Deputy Attorney General.

2. Robin R. Roberts, a.k.a. Robin R. Jackson (Respondent) is representing
herself in this proceeding and has chosen not to exercise her right to be represented by counsel.

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3. On or about September 30, 1982, the Board of Registered Nursing issued Registered Nurse License No. 352098 to Robin R. Roberts, a.k.a. Robin R. Jackson (Respondent). The License was in full force and effect at all times relevant to the charges brought in Third Amended Accusation No. 2007-63 and will expire on October 31, 2008, unless renewed.

JURISDICTION

4. Third Amended Accusation No. 2007-63 was filed before the Board of Registered Nursing, Department of Consumer Affairs (Board), and is currently pending against Respondent. The Third Amended Accusation and all other statutorily required documents were properly served on Respondent on August 20, 2007. Respondent timely filed her Notice of Defense contesting the Third Amended Accusation. A copy of Third Amended Accusation No. 2007-63 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, and understands the charges and allegations in Third Amended Accusation No. 2007-63. Respondent has also carefully read, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Third Amended Accusation; the right to be represented by counsel at her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Third Amended Accusation No. 2007-63.

1 9. Respondent agrees that her Registered Nurse License is subject to
2 discipline and she agrees to be bound by the Board's imposition of discipline as set forth in the
3 Disciplinary Order below.

4 **MITIGATING CIRCUMSTANCES**

5 10. During the period including August 14, 2002 to August 17, 2002, there
6 was a Stage 3 wildfire in the Hoopa Valley Region. This created a state of emergency in the
7 location where Respondent was working.

8 **RESERVATION**

9 11. The admissions made by Respondent herein are only for the purposes of
10 this proceeding, or any other proceedings in which the Board or other professional licensing
11 agency is involved, and shall not be admissible in any other criminal or civil proceeding.

12 **CONTINGENCY**

13 12. This stipulation shall be subject to approval by the Board of Registered
14 Nursing. Respondent understands and agrees that counsel for Complainant and the staff of the
15 Board of Registered Nursing may communicate directly with the Board regarding this stipulation
16 and settlement, without notice to or participation by Respondent. By signing the stipulation,
17 Respondent understands and agrees that she may not withdraw her agreement or seek to rescind
18 the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt
19 this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall
20 be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action
21 between the parties, and the Board shall not be disqualified from further action by having
22 considered this matter.

23 13. The parties understand and agree that facsimile copies of this Stipulated
24 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
25 force and effect as the originals.

26 14. In consideration of the foregoing admissions and stipulations, the parties
27 agree that the Board may, without further notice or formal proceeding, issue and enter the
28 following Disciplinary Order:

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1 Upon successful completion of probation, Respondent's license shall be fully
2 restored.

3 **3. Report in Person.** Respondent, during the period of probation, shall
4 appear in person at interviews/meetings as directed by the Board or its designated
5 representatives.

6 **4. Residency, Practice, or Licensure Outside of State.** Periods of
7 residency or practice as a registered nurse outside of California shall not apply toward a reduction
8 of this probation time period. Respondent's probation is tolled, if and when she resides outside
9 of California. Respondent must provide written notice to the Board within 15 days of any change
10 of residency or practice outside the state, and within 30 days prior to re-establishing residency or
11 returning to practice in this state.

12 Respondent shall provide a list of all states and territories where she has ever been
13 licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further
14 provide information regarding the status of each license and any changes in such license status
15 during the term of probation. Respondent shall inform the Board if she applies for or obtains a
16 new nursing license during the term of probation.

17 **5. Submit Written Reports.** Respondent, during the period of probation,
18 shall submit or cause to be submitted such written reports/declarations and verification of actions
19 under penalty of perjury, as required by the Board. These reports/declarations shall contain
20 statements relative to Respondent's compliance with all the conditions of the Board's Probation
21 Program. Respondent shall immediately execute all release of information forms as may be
22 required by the Board or its representatives.

23 Respondent shall provide a copy of this Decision to the nursing regulatory agency
24 in every state and territory in which she has a registered nurse license.

25 **6. Function as a Registered Nurse.** Respondent, during the period of
26 probation, shall engage in the practice of registered nursing in California for a minimum of 24
27 hours per week for 6 consecutive months or as determined by the Board.

28 For purposes of compliance with the section, "engage in the practice of registered

1 nursing" may include, when approved by the Board, volunteer work as a registered nurse, or
2 work in any non-direct patient care position that requires licensure as a registered nurse.

3 The Board may require that advanced practice nurses engage in advanced practice
4 nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the
5 Board.

6 If Respondent has not complied with this condition during the probationary term,
7 and Respondent has presented sufficient documentation of her good faith efforts to comply with
8 this condition, and if no other conditions have been violated, the Board, in its discretion, may
9 grant an extension of Respondent's probation period up to one year without further hearing in
10 order to comply with this condition. During the one year extension, all original conditions of
11 probation shall apply.

12 7. **Employment Approval and Reporting Requirements.** Respondent
13 shall obtain prior approval from the Board before commencing or continuing any employment,
14 paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all
15 performance evaluations and other employment related reports as a registered nurse upon request
16 of the Board.

17 Respondent shall provide a copy of this Decision to her employer and immediate
18 supervisors prior to commencement of any nursing or other health care related employment.

19 In addition to the above, Respondent shall notify the Board in writing within
20 seventy-two (72) hours after she obtains any nursing or other health care related employment.
21 Respondent shall notify the Board in writing within seventy-two (72) hours after she is
22 terminated or separated, regardless of cause, from any nursing, or other health care related
23 employment with a full explanation of the circumstances surrounding the termination or
24 separation.

25 8. **Supervision.** Respondent shall obtain prior approval from the Board
26 regarding Respondent's level of supervision and/or collaboration before commencing or
27 continuing any employment as a registered nurse, or education and training that includes patient
28 care.

1 Respondent shall practice only under the direct supervision of a registered nurse
2 in good standing (no current discipline) with the Board of Registered Nursing, unless alternative
3 methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician)
4 are approved.

5 Respondent's level of supervision and/or collaboration may include, but is not
6 limited to the following:

7 (a) Maximum - The individual providing supervision and/or collaboration is
8 present in the patient care area or in any other work setting at all times.

9 (b) Moderate - The individual providing supervision and/or collaboration is in
10 the patient care unit or in any other work setting at least half the hours Respondent works.

11 (c) Minimum - The individual providing supervision and/or collaboration has
12 person-to-person communication with Respondent at least twice during each shift worked.

13 (d) Home Health Care - If Respondent is approved to work in the home health
14 care setting, the individual providing supervision and/or collaboration shall have person-to-
15 person communication with Respondent as required by the Board each work day. Respondent
16 shall maintain telephone or other telecommunication contact with the individual providing
17 supervision and/or collaboration as required by the Board during each work day. The individual
18 providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-
19 site visits to patients' homes visited by Respondent with or without Respondent present.

20 9. **Employment Limitations.** Respondent shall not work for a nurse's
21 registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a
22 traveling nurse, or for an in-house nursing pool.

23 Respondent shall not work for a licensed home health agency as a visiting nurse
24 unless the registered nursing supervision and other protections for home visits have been
25 approved by the Board. Respondent shall not work in any other registered nursing occupation
26 where home visits are required.

27 Respondent shall not work in any health care setting as a supervisor of registered
28 nurses. The Board may additionally restrict Respondent from supervising licensed vocational

1 nurses and/or unlicensed assistive personnel on a case-by-case basis.

2 Respondent shall not work as a faculty member in an approved school of nursing
3 or as an instructor in a Board approved continuing education program.

4 Respondent shall work only on a regularly assigned, identified and predetermined
5 worksite(s) and shall not work in a float capacity.

6 If Respondent is working or intends to work in excess of 40 hours per week, the
7 Board may request documentation to determine whether there should be restrictions on the hours
8 of work.

9 10. **Complete a Nursing Course(s).** Respondent, at her own expense, shall
10 enroll and successfully complete a course(s) relevant to the practice of registered nursing no later
11 than six months prior to the end of her probationary term.

12 Respondent shall obtain prior approval from the Board before enrolling in the
13 course(s). Respondent shall submit to the Board the original transcripts or certificates of
14 completion for the above required course(s). The Board shall return the original documents to
15 Respondent after photocopying them for its records.

16 11. **Cost Recovery.** Respondent shall pay to the Board costs associated with
17 its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the
18 amount of \$3,500.00. Respondent shall be permitted to pay these costs in a payment plan
19 approved by the Board, with payments to be completed no later than three months prior to the
20 end of the probation term.

21 If Respondent has not complied with this condition during the probationary term,
22 and Respondent has presented sufficient documentation of her good faith efforts to comply with
23 this condition, and if no other conditions have been violated, the Board, in its discretion, may
24 grant an extension of Respondent's probation period up to one year without further hearing in
25 order to comply with this condition. During the one year extension, all original conditions of
26 probation will apply.

27 12. **Violation of Probation.** If Respondent violates the conditions of her
28 probation, the Board after giving Respondent notice and an opportunity to be heard, may set

1 aside the stay order and impose the stayed discipline (revocation/suspension) of Respondent's
2 license.

3 If during the period of probation, an accusation or petition to revoke probation has
4 been filed against Respondent's license or the Attorney General's Office has been requested to
5 prepare an accusation or petition to revoke probation against Respondent's license, the
6 probationary period shall automatically be extended and shall not expire until the accusation or
7 petition has been acted upon by the Board.

8 13. **License Surrender.** During Respondent's term of probation, if she ceases
9 practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of
10 probation, Respondent may surrender her license to the Board. The Board reserves the right to
11 evaluate Respondent's request and to exercise its discretion whether to grant the request, or to
12 take any other action deemed appropriate and reasonable under the circumstances, without
13 further hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent
14 will no longer be subject to the conditions of probation.

15 Surrender of Respondent's license shall be considered a disciplinary action and
16 shall become a part of Respondent's license history with the Board. A registered nurse whose
17 license has been surrendered may petition the Board for reinstatement no sooner than the
18 following minimum periods from the effective date of the disciplinary decision:

19 (1) Two years for reinstatement of a license that was surrendered for any
20 reason other than a mental or physical illness; or

21 (2) One year for a license surrendered for a mental or physical illness.

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ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Registered Nurse License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Registered Nursing, Department of Consumer Affairs..

DATED: 8/21/07


ROBIN RENEE ROBERTS
Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Registered Nursing, Department of Consumer Affairs.

DATED: 8/22/07

EDMUND G. BROWN JR., Attorney General
of the State of California

FRANK H. PACOE
Supervising Deputy Attorney General


REBECCA HEINSTEIN
Deputy Attorney General

Attorneys for Complainant

Exhibit A

Third Amended Accusation No. 2007-63

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 FRANK PACOE
Supervising Deputy Attorney General
3 REBECCA HEINSTEIN, State Bar No. 173202
Deputy Attorney General
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5 San Francisco, CA 94102-7004
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7 Attorneys for Complainant

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11 In the Matter of the Third Amended Accusation
12 Against:

Case No. 2007-63

13 **ROBIN R. ROBERTS,**
14 **a.k.a. ROBIN R. JACKSON**
P.O. Box 276
Hoopa, CA 95546

THIRD AMENDED ACCUSATION

15 Registered Nurse License No. 352098

16
17 Respondent.

18 Complainant alleges:

19 **PARTIES**

20 1. Ruth Ann Terry, M.P.H., R.N. ("Complainant") brings this Third
21 Amended Accusation solely in her official capacity as the Executive Officer of the Board of
22 Registered Nursing, Department of Consumer Affairs.

23 2. On or about September 30, 1982, the Board of Registered Nursing
24 ("Board") issued Registered Nurse License Number 352098 to Robin R. Roberts, a.k.a. Robin R.
25 Jackson ("Respondent"). The license was in full force and effect at all times relevant to the
26 charges brought herein and will expire on October 31, 2008, unless renewed.

27 / / /

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1 JURISDICTION

2 3. This Third Amended Accusation is brought before the Board under the
3 authority of the following laws. All section references are to the Business and Professions Code
4 unless otherwise indicated.

5 4. Section 2750 of the Business and Professions Code ("Code") provides:

6 "Every certificate holder or licensee, including licensees
7 holding temporary licenses, or licensees holding licenses placed
8 in an inactive status, may be disciplined as provided in this
9 article [Article 3 of the Nursing Practice Act (Bus. & Prof
10 Code, § 2700 et seq.)]. As used in this article, 'license' includes
11 certificate, registration, or any other authorization to engage
12 in practice regulated by this chapter. The proceedings under
13 this article shall be conducted in accordance with Chapter 5
14 (commencing with Section 11500) of Part 1 of Division 3 of
15 Title 2 of the Government Code [the Administrative Procedure
16 Act], and the board shall have all the powers granted therein."

17 5. Section 2761 of the Code provides, in pertinent part:

18 "The board may take disciplinary action against a certified
19 or licensed nurse or deny an application for a certificate or license
20 for any of the following:

21 (a) Unprofessional conduct, which includes, but is not
22 limited to, the following:

23 (1) Incompetence, or gross negligence in carrying out
24 usual certified or licensed nursing functions."

25

26 6. Title 16, California Code of Regulations, section 1443, provides:

27 "As used in Section 2761 of the code, 'incompetence'
28 means the lack of possession of or the failure to exercise that
degree of learning, skill, care and experience ordinarily possessed
and exercised by a competent registered nurse as described in
Section 1443.5."

7. Title 16, California Code of Regulations, section 1443.5 provides:

"A registered nurse shall be considered to be competent
when he/she consistently demonstrates the ability to transfer
scientific knowledge from social, biological and physical
sciences in applying the nursing process, as follows:

(1) Formulates a nursing diagnosis through observation
of the client's physical condition and behavior, and through
interpretation of information obtained from the client and

1 others, including the health team.

2 (2) Formulates a care plan, in collaboration with the client,
3 which ensures that direct and indirect nursing care services provide
4 for the client's safety, comfort, hygiene, and protection, and for
5 disease prevention and restorative measures.

6 (3) Performs skills essential to the kind of nursing action
7 to be taken, explains the health treatment to the client and family
8 and teaches the client and family how to care for the client's health
9 needs.

10 (4) Delegates tasks to subordinates based on the legal
11 scopes of practice of the subordinates and on the preparation and
12 capability needed in the tasks to be delegated, and effectively
13 supervises nursing care being given by subordinates.

14 (5) Evaluates the effectiveness of the care plan through
15 observation of the client's physical condition and behavior, signs
16 and symptoms of illness, and reactions to treatment and through
17 communication with the client and health team members, and
18 modifies the plan as needed.

19 (6) Acts as the client's advocate, as circumstances require,
20 by initiating action to improve health care or to change decisions or
21 activities which are against the interests or wishes of the client, and
22 by giving the client the opportunity to make informed decisions
23 about health care before it is provided."

24 8. Section 125.3 of the Code provides that the Board may request the
25 administrative law judge to direct a licensee found to have committed a violation or violations
26 of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
27 enforcement of the case.

28 FIRST CAUSE FOR DISCIPLINE

(Incompetence)

9. Respondent is subject to disciplinary action under section 2761(a)(1) of
the Code, on the grounds of unprofessional conduct, in that on or about August 14, 2002, while
on duty as a registered nurse at K'ima:W Medical Center in Hoopa, California, Respondent was
incompetent, within the meaning of Title 16, California Code of Regulations section 1443 in that
she administered 80 mg of Testosterone to Patient "A," when the physician's order was for 50
mg of Testosterone.

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